

Minutes  
Air Pollution Control Board  
Indiana Government Center South  
Conference Room A  
402 West Washington Street  
Indianapolis, Indiana

May 2, 2007  
1:25 p.m.

1. Dr. James Miner, Chairman, called the meeting to order.  
He noted that a quorum was present.

**CALL TO ORDER  
QUORUM**

2. Chairman Miner introduced the board members.

**INTRODUCTION OF  
MEMBERS**

Present: Dr. James Miner, Chairman  
Mr. Kurt Anderson  
Mr. Thomas Anderson  
Mr. David Benshoof  
Mr. Steve Boyce, Proxy, Lt. Governor  
Mr. Howard Cundiff, Proxy, State Board of Health  
Ms. Pamela Fisher, Proxy, Indiana Economic Development Corporation  
Mr. Chris Horn  
Mr. Ron McAhrn, Proxy, Dept. of Natural Resources  
Mr. Jeffrey Quyle  
Mr. Randy Staley, and  
Dr. Phil Stevens

Also present were Mr. Thomas Easterly, Commissioner; and Ms. Kathy Watson, Air Programs Branch Chief. Others present are recorded on a separate sheet and made a part of this record. A court reporter was present and a transcript is available for review.

3. Ms. Watson provided an update on current and pending rulemakings. She stated that the first notice for the Title V permit fees rule was in process to make the rule consistent with the Board's action in December, 2007. She also stated that the first notice for the permit review times frames rule had recently been published and that this would amend rules to allow additional time for IDEM to review and process minor operating permits and minor permit modifications to the Part 70 permits.

**REPORTS**

4. Chairman Miner introduced Exhibit 1, the proposed rule as preliminarily adopted, into the record of the hearing.

Ms. Watson stated that this is the final adoption of the rule to officially recognize the redesignation of Allen County to attainment for the eight-hour ozone standard, and ensures that that federal designation is shown in our state rules. Ms. Watson stated that there were no comments or changes since its preliminary adoption and asked the board to final adopt the rule.

**PUBLIC HEARING  
FOR FINAL  
ADOPTION OF  
AMENDMENTS TO  
326 IAC 1-4-1.  
Redesignation of Allen  
County to Attainment  
for the 8-Hour Ozone  
Standard.**

**LSA #07-24**

Mr. Cundiff moved to final adopt the amendments to 326 IAC 1-4-1. Dr. Stevens seconded. The motion passed 12-0.

5. Chairman Miner stated that no public hearing is required for adoption of emergency rules. Chairman Miner introduced Exhibit 1-E, the draft emergency rule, into the record of the hearing.

Ms. Watson stated that this would allow the redesignation to attainment for Allen County to go into effect pending the promulgation of the rule that the board had just adopted as final.

**EMERGENCY RULE**

**Redesignation of Allen  
County to Attainment  
for the 8-Hour Ozone  
Standard Under IAC  
4-22-2-27.1**

Mr. Horn moved to adopt the emergency rule, to 326 IAC 1-4-1. Mr. Benshoof seconded. The motion passed unanimously.

6. Chairman Miner introduced Exhibit 2, the proposed rule as preliminarily, into the record of the hearing.

Ms. Watson stated that this rule would allow a ten-year permit renewal term for minor source operating permits and federally enforceable state operating permits in lieu of the current five-year term. The ten year term comports with what is allowed under state law. Ms. Watson stated that there had been no changes to the rule since its preliminary adoption and asked the board to final adopt the rule.

**PUBLIC HEARING  
FOR FINAL  
ADOPTION OF  
AMENDMENTS TO  
RULES 326 IAC 2-1.1-  
9.5, 326 IAC 2-6.1-7, and  
326 IAC 2-8-4 and  
repeal of 326 IAC 25-2-  
2. Ten Year Permit  
Renewal Term for  
Minor Source Operating  
Permits (MSOPs) and  
Federally Enforceable  
State Operating Permits  
(FESOPs).**

**LSA #06-487**

Mr. Benshoof moved to final adopt amendments to rules 326 IAC 2-1.1-9.5, 326 IAC 2-6.1-7, and 326 IAC 2-8-4 and repeal of 326 IAC 25-2-2. Mr. Staley seconded. The motion carried 12-0.

7. Chairman Miner introduced Exhibit 3, the draft rule, into the recording of the hearing.

Ms. Christine Pedersen, Rulewriter, stated that this rule concerns amendments to the Motor Vehicle Inspection and Maintenance, or I & M, program in Lake and Porter Counties. IDEM is proposing enhancements to the existing program that are currently at 326 IAC 13-1.1. Ms. Pedersen stated that these enhancements would not increase the stringency of the program, nor with they increase the number of vehicles to be tested. They will increase customer convenience and safety, and there should be a savings in cost and time for the affected motorists. The Lake and Porter I & M program has been helping improve air quality in these counties since 1984.

**PUBLIC HEARING  
FOR PRELIMINARY  
ADOPTION OF  
AMENDMENTS TO  
RULE 326 IAC 13-1.1.  
Amendments to the  
Inspection and  
Maintenance Rules in  
Lake and Porter  
Counties.**

**LSA #06-284**

Ms. Pedersen stated that IDEM proposes two enhancements to the existing program. The first concerns second-generation on-board diagnostics, or OBDII and IDEM proposed an optional retest for certain OBDII-equipped vehicles. Auto manufacturers had been required to meet the federal OBDII vehicle emission standards since 1996. The second enhancement that IDEM proposed is the addition of a leak test procedure for 1976 through 1995 model vehicles to help detect leaks of volatile organic compounds (VOC) that contribute to ozone formation. Ms. Pedersen asked the board to preliminarily adopt the rule as amended.

Ms. Charlotte Read of Chesterton, Indiana, expressed support of the rulemaking.

Mr. T. Anderson moved to preliminarily adopt the amendments to rule 326 IAC 13-1.1. Mr. Horn seconded. The motion carried unanimously.

8. Chairman Miner introduced Exhibit 4, the draft rule, into the recording of the hearing.

Ms. Susan Bem, Rulewriter, stated that the new rulemaking is a mercury trading program to implement the Federal Clean Air Mercury Rule, or CAMR.

**PUBLIC HEARING  
FOR PRELIMINARY  
ADOPTION OF NEW  
RULE 326 IAC 24-4.  
Clean Air Mercury  
Rule.**

**LSA #05-116**

Mr. Tim Maloney, Executive Director, for Hoosier Environmental Council submitted a handout and gave a presentation. He stated that other states were working on mercury regulations that are stronger than the CAMR rule, with greater reductions and shorter deadlines. Mr. Maloney asked the board to adopt a rule that requires a 90 percent mercury reduction by power plants.

Dr. Indra Frank stated that she served on the mercury study group for this rulemaking. She submitted a handout and gave a presentation. She stated that given that mercury is an undisputed toxin and that control beyond CAMR is available now and inexpensive, is it hard to understand why we should delay controlling mercury by nearly 20 years Dr. Frank

endorsed Mr. Maloney's request to control mercury beyond CAMR.

Mr. Jerry King, Executive Director of the Indiana Public Health Association, stated that his organization has adopted a resolution in favor of a more aggressive reduction in mercury emissions than CAMR.

Ms. Janet McCabe, Improving Kids' Environment, asked the board to adopt a rule that goes beyond the minimum requirements of the federal rule. She also proposed a compromise that would retain the cap-and-trade program and the Phase I compliance date of 2010 but would move the Phase II compliance deadline from 2018 to 2015 and would lower the Phase II reduction target to 1200 pounds of mercury. She said that a modest reduction in the timeline would result in approximately 9,000 fewer pounds of mercury emitted into Indiana's atmosphere. Ms. McCabe provided draft language for her proposal to the Board. Ms. McCabe brought to the board's attention an apparent conflict of interest, or an appearance of a conflict of interest in the matter of this rulemaking, for board member, Jeffery Quyle.

Mr. Stan Pinegar, Vice-President of the Indiana Energy Association, commented on the rulemaking. Mr. Pinegar spoke on behalf of 14 investor-owned electric and gas investor-owned utilities as well as three nonmember electric generating companies in the Indiana Utility Group (IUG) who collaborated on the development of the rule before the board. Mr. Pinegar stated that the IUG fully supports the rule that the board has before them. Mr. Pinegar stated that the IUG believes that the rule as proposed by the agency is the right decision for the State of Indiana; is the right decision for Indiana's public health; and is the right decision for IUG's customers who will be paying for the cost of controls through increased rates.

Mr. Dan Weiss, Director of State Environmental and Energy Policy Affairs for Duke Energy, Indiana, stated that Duke Energy believes that the proposed rule strikes the appropriate balance between improving and protecting Indiana's environment and preserving Indiana's economic engine for the future. Duke expressed support for the inclusion in the proposed rule of the clean coal technology incentive for new power plants.

Mr. David Long, Senior Engineer in the Air Quality Services Section of Environmental Services for American Electric Power (AEP) Service Corporation, representing American Electric Power, including Indiana-Michigan Power and AEP Generating Company, stated that the AEP system strongly encouraged the Board to adopt IDEM's CAMR proposal.

Robert Asplund, Project Manager for Dominion Services in Richmond, Virginia that owns and operated the State Line Energy, LLC plant in Hammond, Indiana said that Dominion endorses adoption of the federal CAMR model rule and asked the Board to adopt the federal rule as proposed by IDEM.

Mr. Mark Strimbu, Program Leader for Air Programs for NiSource Corp. Services in Merrillville, spoke on behalf of the IUG Companies. Mr. Strimbu reviewed modeling results and stated that based on the modeling there is very little, if any benefit to requiring mercury emission reductions beyond those of the IDEM-proposed CAMR. He stated that even if mercury control technology for use at all of the EGU fleet was available to achieve

the more stringent reductions than those required by CAMR, those beyond-CAMR reductions in Indiana utilities wouldn't produce meaningful reductions in deposition in Indiana.

Mr. John Ross, Manager of Regulatory Programs at NiSource, provided comments on behalf of the Indiana Energy Association and the IUG. His comments summarized information found in the IEA comments that were submitted in the CAMR second notice comment period. Mr. Ross stated that he was not aware of anyone that has provided information regarding any waterbody-specific methylation rates or chemistry for Indiana waterbodies, which is a prerequisite for determining what impact a deposition reduction would have in Indiana, nor what a one-percent improvement in deposition beyond CAMR would have on fish tissue concentrations in Indiana.

Mr. Dwayne Burke, Director of Environmental Affairs, Indianapolis Power & Light, said that IPL supports the federal CAMR and IDEM's adoption of CAMR.

Mr. Vince Griffin, representing the State Chamber of Commerce, said that the State Chamber supports adoption of the Federal Mercury Rule. He said that if Indiana adopts a program that would be in excess of the federal standard, it would realize little, if any, environmental or public health benefit, it would be very costly, and it would place Indiana business at an economic disadvantage with other states.

Dr. Paul Winchester, a neonatologist and faculty member at Riley Children's Hospital, representing the Indiana Academy of Pediatrics, reviewed available environmental and health data and said that the Academy has some grave concerns that the Indiana environment is not healthy for our children and would urge the board to adopt stringent rules which would protect our children.

Mr. John Gibson, concerned citizen and retired clergyman, said that if it is true that we have the ability to get more reductions, even though that is somewhat contended here today, but at least 21 states around the country have felt like it is, with various considerations, and if these things are true, how could we not take the high road in this rulemaking. He questioned how people, like himself, would not be willing to pay a higher rate for our electric power, if that is what it takes to safeguard the health and well being of our citizens.

Mr. Chuck Brinkman, representing the Indiana Wildlife Federation, commented on the impact of mercury on wildlife. He said that he saw that there were two options before the board. One is CAMR, the other is a 90-percent reduction. Mr. Brinkman said that he was stunned that we could not come up with something in-between. He stated that it's almost like there's not enough concern for the health of the citizens in this environment, in this state, or for the wildlife.

Dr. Indra Frank read comments by Ms. Julia Tipton Hogan, Community Outreach Coordinator for the Indiana Perinatal Network. The Indiana Perinatal Network supports the maximum reduction in mercury in Indiana as soon as possible.

Mr. Richard Van Frank, President, Improving Kids' Environment, commented on the

apparent/appearance of conflict of interest issue.

Mr. Jeff Barns, citizen, said that he thought that the decision that is made today will leave a lasting legacy for our children and grandchildren, and that it's important to make the right decision. He stated that in talking with other people he knows, friends, family and co-workers, that nobody has ever had an issue with paying higher rates to solve the mercury issue. So the minor increase in rates should not be a major factor at all.

Dr. Jim Wheeler, Senior Vice President for Economic Development at Thomas P. Miller & Associates, economic development strategists, planners, implementers for communities in Indiana and across the country said that he supports the adoption of the Clean Air Mercury Rule because it goes a long way in the right direction without getting us into a lot of the uncertainty that the more stringent rules would impose.

Mr. Patrick Bennett, representing the Indiana Manufacturers Association, said that the IMA supports the rule as present by the agency.

Ms. Carly Watson, representing Air Aware and also Valley Watch, expressed support of the Hoosier Environmental Council petition and urged the Board to adopt it.

Mr. Ryan Camp, Field Canvass Director at the Hoosier Environmental Council, said that HEC had talked to just over 25,000 people and gotten approximately 15,000 signatures on petitions that have been forwarded to IDEM asking for a 90-percent reduction in mercury emissions. He said that the consensus is that citizens are very happy to pay a little more on electricity bills to see that mercury reduction occurs.

Mr. Claude Cadell, citizen from Frankfort, Indiana stated that he is in favor of the HEC petition.

Ms. Constance Clay, Resource Specialist with Save The Dunes Council, said that the Council agrees with others in the conservation community that the Environmental Protection Agency's 2005 Clean Air Mercury Rule requirements of 66-percent reduction in Indiana's mercury emissions by 2018 does not go far enough. She advocated for less environmental impacts by utility plants and voice support for protecting the environment as well as the health of Indiana's citizens with regulations that are enforceable and affordable.

Ms. Jenny Kalis representing Indiana Biomedical Kids, a group of parents who are using various detoxification method to recover their children from autism, ADHD, allergies and asthma, said that no amount of mercury is safe.

Dr. Miner read Mr. Steve Fox of the Marion County Green Party' comment. Mr. Fox strongly supports the HEC proposal.

Mr. Benshoof moved to preliminarily adopt new rule 326 IAC 24-4 as proposed. Mr. Boyce seconded. On a roll call vote, the motion carried 7 yes to 4 no with Mr. Quyle abstaining.

9. The next meeting was tentatively scheduled for Wednesday, August 3, 2005, at 1:00 p.m, Indiana Government Center South, Indianapolis, Indiana in Conference Room A.

**NEXT MEETING**

10. Mr. Benshoof moved to adjourn the meeting. Mr. Staley seconded. The vote was unanimous. Chairman Miner adjourned the meeting at 7:05 p.m.

**ADJOURNMENT**

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James Miner, Chairman

*These minutes were taken from the May 2, 2007, transcript, and were written on July 23, 2007, by Karol Chuma, Office of Air Quality.*